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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,133	12/20/2001	Karl-Heinz Thierauch	SCH 1821	9439
23599 7590 10/21/2003 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			EXAMINER VOGEL, NANCY T	
			ART UNIT 1636	PAPER NUMBER

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,133

Applicant(s)

THIERAUCH ET AL.

Examiner

Nancy Vogel

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Groups I-59, claim(s) 1-19, 33-35, 39 drawn to nucleic acid, vectors, expression cassette, host cells, genes, method of using nucleic acid to produce full length genes, only as directed to nucleic acids of SEQ ID Nos. 1-59, respectively.

Groups 60-118, claim(s) 20, and 23-27, and 32, drawn to polypeptide, pharmaceutical agent, method of making polypeptide, and method of finding active ingredients against angiogenic diseases using polypeptide, only as directed to polypeptide encoded by SEQ ID Nos. 1-59.

Groups 119-177, claim(s) 21 and 22, drawn to antibody, only as directed against a polypeptide coded by the nucleic acids of SEQ ID Nos. 1-59.

Groups 178-236 claim(s) 28, drawn to use of nucleic acid sequences for expression of polypeptides, only as directed to nucleic acids of SEQ ID Nos. 1-59.

Groups 237-295, claim(s) 29, 36, 37 drawn to unknown use of nucleic acid sequences and genomic clones, only as directed to nucleic acids of SEQ ID Nos. 1-59.

Groups 296-354, claim(s) 30, drawn to use of polypeptide sequences as pharmaceutical agents, only as drawn to polypeptides encoded by SEQ ID Nos. 1-59.

Groups 355-413, claim(s) 31, drawn to use of polypeptide sequences for the production of a pharmaceutical agent, only as drawn to polypeptides encoded by SEQ ID Nos. 1-59.

Groups 414-472, claim(s) 38 and 40, drawn to use for nucleic acid sequences and peptides encoded by nucleic acids as a pharmaceutical agent, only as drawn to nucleic acids of SEQ ID Nos. 1-59.

The inventions listed as Groups 1-472 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

PCT Rule 13.2 requires that unity of invention exists only when there is a shared same or corresponding technical feature among the claimed inventions. Each member within each set of groups of inventions is drawn to a polynucleotide or polypeptide of a sequence unrelated to the other members and thus does not share a same or corresponding technical feature with the other members. Each set of groups of inventions has a different technical feature not shared by the other groups: Groups 1-59, 60-118, and 119-177 are directed to nucleic acid, etc. polypeptide, et c. and antibody which are different from each other structurally and functionally and thus do not share a technical feature. Groups 1-59, and 60-118 also contain the first method of use and first method of making corresponding to each group. Groups 178-236 are drawn to a use which has the technical feature of expression of polypeptides, which is not shared by the other groups. Groups 237-295 are drawn to an unknown use of nucleic acid sequences, not shared by the other groups. Groups 396-354 are drawn to a use which has the technical feature of use of polypeptides as pharmaceutical agents, which is not shared by the other groups. Groups 355-413 are drawn to use which has the technical feature of using polypeptide sequences to produce a pharmaceutical agent, which is not shared by the other groups. Groups 414-472 are drawn to a use which has the technical feature of using nucleic acid sequences as a pharmaceutical agent, which is not shared by the other groups.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy Vogel whose telephone number is (703) 308-4548. The examiner can normally be reached on 7:30 - 4:00, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel, Ph.D. can be reached on (703) 305-1998. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

ntv  
10/8/03

  
TERRY MCKELVEY  
PRIMARY EXAMINER